



## **PLANNING COMMISSION AGENDA**

**Wednesday, September 28, 2005**

**6:30 p.m.** General Plan and Regular Meeting  
Council Chambers, City Hall

200 East Santa Clara Street  
San Jose, California

**Bob Dhillon, Chair**  
**Xavier Campos, Vice-Chair**

**Bob Levy     Jay James**  
**Dang T. Pham**  
**Christopher Platten     James Zito**

**Stephen M. Haase, Director**  
**Planning, Building and Code Enforcement**

## NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation and have not already identified yourself to the technician seated at the staff table, please do so now. If you did not call in advance and do now need assistance, please see the technician.

## NOTICE TO THE PUBLIC

Good evening, my name is **Bob Dhillon** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of ***Wednesday, September 28, 2005***. Please remember to turn off your cell phones and pagers.

If you want to address the Commission, **fill out a speaker card (located on the table by the door or at the technician's station), and give the completed card to the technician. Please include the agenda item number for reference.**

The procedure for this hearing is as follows:

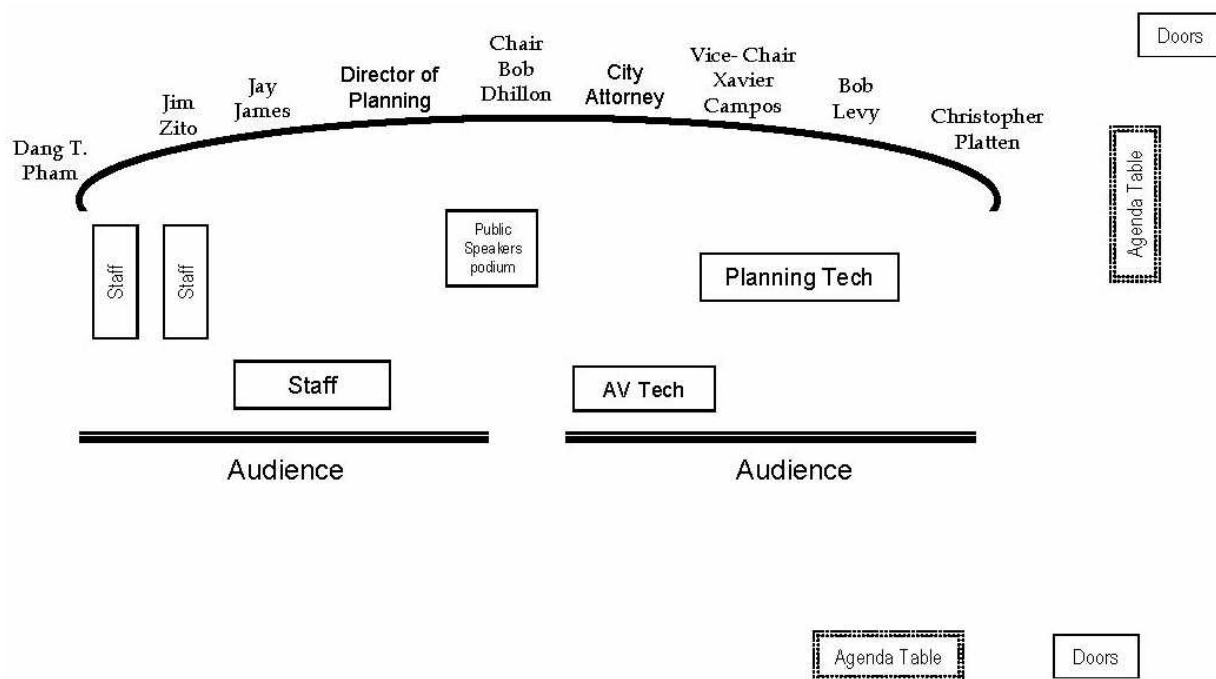
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

**If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.**

**The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items.** Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

**Note:** If you have any agenda questions, please contact Olga Guzman at [olga.guzman@sanjoseca.gov](mailto:olga.guzman@sanjoseca.gov)

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose Planning Commission generally meets every 2<sup>nd</sup> and 4<sup>th</sup> Wednesday at 6:30 p.m., unless otherwise noted. The remaining meeting schedule is attached to this agenda and the annual schedule is posted on the web at <http://www.sanjoseca.gov/planning/hearings/index.htm> Staff reports, etc. are also available on-line. If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**AGENDA**  
**ORDER OF BUSINESS**

**1. ROLL CALL**

**2. DEFERRALS**

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items, you should say so at this time.

**3. CONSENT CALENDAR**

**NOTICE TO THE PUBLIC**

**The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff or the public to have an item removed from the consent calendar and considered separately. If anyone in the audience wishes to speak on one of these items, please come to the podium at this time.**

- a. **CP05-035**. Conditional Use Permit to allow an Adult Day Care Center for the developmentally disabled in an existing 4,188 sq.ft. building on a 2.3 gross acre site in the CN – Commercial neighborhood Zoning District (pending rezoning), located approximately 190' easterly of the intersection of Blossom Hill Road and Poughkeepsie Road (120 BLOSSOM HILL RD) (Gavilan Plaza, Owner). Council District 2. SNI: None. CEQA: Exempt. Deferred from 9-14-05.

**Staff Recommendation:**

Approve a Conditional Use Permit to allow an Adult Day Care Center for the developmentally disabled in an existing 4,188 sq.ft. building as recommended by Staff.

- b. **CP05-041**. Conditional Use Permit to allow a post-secondary school within an existing building on a 2.88 gross acres site in the IP Industrial Park Zoning District, located on the northeast corner of the intersection of Concourse Drive and Lundy Avenue (2160 LUNDY AV) (Jel Partners Lp, Owner). Council District 4. SNI: None. CEQA Exempt.

**Staff Recommendation:**

Approve a Conditional Use Permit to allow a post-secondary school within an existing building as recommended by Staff.

- c. [C04-024](#). Conventional Rezoning from A Agriculture Zoning District and R-1-1 Residence Zoning District to R-1-5 Residence Zoning District to allow residential uses on a 1.8 gross acre site, located at/on the northwest corner of Viewpoint Lane and Almaden Road (Asea Rose A Trustee, Ventling Ronald J Trustee, Morton Lane R, Grewal Jaspinder S And Sarbjeet K Et Al, Almaneih Naser Rahimi, Owner). Council District 10. SNI: None. CEQA: Use of San Jose 2020 General Plan EIR.

**Staff Recommendation:**

Consider the Environmental Impact Report and find it in compliance with CEQA. Recommend to the City Council approval of a proposed Conforming Rezoning from A Agriculture Zoning District and R-1-1 Residence Zoning District to R-1-5 Residence Zoning District to allow residential uses as recommended by Staff.

**The following items are considered individually.**

**4. PUBLIC HEARINGS**

- a. [An Ordinance amending section 20.40.100 of Chapter 20.40, section 20.70.100 of Chapter 20.70, and sections 20.80.500 and 20.80.900 of Chapter 20.80 of Title 20](#) of the San Jose Municipal Code to modify the provisions for the off-sale of alcoholic beverages. SNI areas: All. CEQA: Exempt, PP05-161. Deferred from 8-24-05.

**Staff Recommendation:**

Recommend to the City Council approval of the proposed ordinance amending Title 20 of the San Jose Municipal Code to modify the provisions for the off-sale of alcoholic beverages.

- b. [PDC03-053](#). Planned Development Rezoning from CN Commercial Neighborhood and CG(PD) Planned Development Zoning District to CN(PD) Planned Development Zoning District to allow commercial, automobile dealership and parking structure uses on a 3.1 gross acre site (320 Ardis Avenue) and from R-1-8 Residence Zoning District to R-1-8 (PD) Planned Development Zoning Districts to allow parking and residential uses on a 0.16 gross acre site (333 South Henry Avenue), located at the south side of Stevens Creek Boulevard between Ardis and South Henry Avenues (Behel, Paris, Gesell, Calabro, Jozovich, Battaglia, Fenley, Mattos: Owners). Council District 1. SNI: None. CEQA: San Jose 2020 EIR. Deferred from 9-14-05.

**Staff Recommendation:**

Consider the Environmental Impact Report and find it in compliance with CEQA. Recommend to the City Council approval of a proposed Planned Development Rezoning from CN Commercial Neighborhood and CG(PD) Planned Development Zoning Districts to CG(PD) & R-1-8 (PD) Planned Development Zoning Districts to allow commercial, automobile dealership, parking structure uses and residential uses as recommended by Staff.

- c. [PDC05-028](#). Planned Development Rezoning from CN Commercial Neighborhood and R-1-8 Single Family Residence Zoning Districts to A(PD) Planned Development Zoning District to allow the demolition of three single-family detached residences and allow commercial, automobile dealership, and parking uses on a 1.46 gross acre site located at the southwest corner of Ardis Avenue & Stevens Creek Boulevard (3370 Stevens Creek Boulevard). (Homara Hooshang & Manizheh Trustee, Owners). Council District 1. SNI: None. CEQA: Exempt. Deferred from 9-14-05.

**Staff Recommendation:**

Recommend to the City Council approval of a proposed Planned Development Rezoning from CN Commercial Neighborhood and R-1-8 Single Family Residence Zoning Districts to A(PD) Planned Development Zoning District to allow the demolition of three single-family detached residences and allow commercial, automobile dealership, and parking uses as recommended by Staff.

- d. [CP05-039](#). Conditional Use Permit Amendment to allow an approximate 3,000 square foot enclosure of a rear covered patio portion of an existing drinking and entertainment establishment, including the addition of entertainment and music within the newly enclosed space, and extension of the time limit of the approved CUP on a 0.27 gross acre site in the DC Downtown Primary Commercial Zoning District, located on west side of South First Street, 120 feet south of West San Salvador Street (417 S 1ST ST) (Rosicki Jacek And Ann C, Owner). Council District 3. SNI: None. CEQA: Exempt. Deferred from 9-14-05.

**Staff Recommendation:**

Approve a Conditional Use Permit Amendment to allow the enclosure and entertainment within that area as recommended by Staff and deny request for time limit extension.

- e. [CP04-011](#). Conditional Use Permit to legalize conversion of single-family detached residence to private performing arts school use on a 0.14 gross acre site in the R-1-8 Single-Family Residence Zoning District, located at/on northeast corner of Garces Avenue and Santa Teresa Boulevard (5998 GARCES AV) (Fagundes Anthony D And A J Trustee, Owner). Council District 10. SNI: None. CEQA: Exempt.

**Staff Recommendation:**

Approve a Conditional Use Permit to to legalize conversion of single-family detached residence to private performing arts school use as recommended by Staff.

- f. The projects being considered are located on west side of Morrill Avenue, 550 feet southerly of Landess Avenue (TARGET) (2155 MORRILL AV) in the CG- General Commercial Zoning District (Cheng Betty L Trustee, Owner). Council District 4. SNI: None. CEQA: Exempt.

1. [CP05-033](#). Conditional Use Permit request to allow off-sale of alcoholic beverages at an existing retail commercial building on a 9.02 gross acre site

**Staff Recommendation:**

Approve a Conditional Use Permit to allow off-sale of alcoholic beverages at an existing retail commercial building as recommended by Staff.

2. [ABC05-003](#). Liquor License Exception permit to allow off-sale of alcoholic beverages at an existing retail commercial building on a 9.02 gross acre site.

**Staff Recommendation:**

Approve a Liquor License Exception permit to allow off-sale of alcoholic beverages at an existing retail commercial building as recommended by Staff.

**5. OPEN PLANNING COMMISSION SUMMER HEARING ON GENERAL PLAN AMENDMENTS**

- a. Status Report on Framework, as a Guideline, to evaluate proposed conversion of Employment Lands to other uses.

**6. GENERAL PLAN CONSENT CALENDAR**

NONE

**7. GENERAL PLAN PUBLIC HEARING CALENDAR**

- a. **GP03-04-07**: GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Medium High Density Residential (12-25 DU/AC) for property located at the south side of Berryessa Road, approximately 740 feet east of Jackson Avenue on a 3.78-acre site (2.5 acres excluding right-of-way). (Grace R Nola Trustee & et al, Owner/City of San Jose, Applicant). CEQA: EIR Resolution No. 72467. Council District: 4. SNI: None.

**Staff Recommendation:**

Consider the Environmental Impact Report and find it in compliance with CEQA. Recommend to the City Council approval of a General Plan Amendment to Medium High Density Residential (12-25 DU/AC) on 3.78 acres.

- b. **GP05-04-01**: GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to Medium High Density Residential (12-25 DU/AC) for property located on the northwest corner of the intersection of Oakland Road and Rock Avenue (2059 Oakland Road) on approximately 4.7 acres. (Ernest E. Pestana, Owner/Bob Hencken, Summerhill Homes, Applicant). CEQA: Mitigated Negative Declaration. Council District 4. SNI: None.

**Staff Recommendation:**

Consider the Negative Declaration and find it in compliance with CEQA.  
Recommend to the City Council denial of the proposed General Plan Amendment.

- c. The items being considered are located on the northeast corner of Samaritan Drive and Clydelle Avenue (2039 Samaritan Drive) on approximately 13.4-acre site. (Berg & Berg Developers, Owner/Bob Hencken, Summerhill Homes, Applicant). CEQA: Mitigated Negative Declaration, GP05-09-01, and PDC05-036. Council District 9. SNI: None.

1. **GP05-09-01**: GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Medium High Density Residential (12-25 DU/AC) on approximately 12.4 acres and Public Park and Open Space on a minimum of one acre.

**Staff Recommendation:**

Consider the Negative Declaration and find it in compliance with CEQA.  
Recommend to the City Council approval of a General Plan Amendment to Medium High Density Residential (12-25 DU/AC) on approximately 12.4 acres and Public Park and Open Space on a minimum of one acre.

2. **PDC05-036**: PLANNED DEVELOPMENT REZONING from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 226 single-family detached and attached residences and to allow a minimum one-acre public park on approximately 13.4 acres.

**Staff Recommendation:**

Consider the Negative Declaration and find it in compliance with CEQA.  
Recommend to the City Council approval of A(PD) Planned Development Zoning District to allow up to 226 single-family detached and attached residences and to allow a minimum one-acre public park on approximately 13.4 acres.

8. **APPROVAL OF PLANNING COMMISSION RECOMMENDATIONS ON SUMMER HEARING ON GENERAL PLAN AMENDMENTS SEPTEMBER 28, 2005**

9. **PETITIONS AND COMMUNICATIONS**

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
1. Responding to statements made or questions posed by members of the public; or



2. Requesting staff to report back on a matter at a subsequent meeting; or
3. Directing staff to place the item on a future agenda.

**10. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

**11. GOOD AND WELFARE**

- a. Report from City Council
- b. Commissioners' reports from Committees:
  - Norman Y. Mineta San Jose International Airport Noise Advisory Committee (James).
  - Coyote Valley Specific Plan (Platten)
  - Evergreen East Hills Vision Strategy Task Force (Levy)
- c. Review of synopsis

**12. ADJOURNMENT**

## 2005 PLANNING COMMISSION MEETING SCHEDULE

January 12	5:00 p.m. - 6:00 p.m.	<i>Study Session</i> <i>Discussion of Meeting Logistics</i>	Room 400
January 12	6:00 p.m.	Regular Meeting	Council Chambers
January 26	6:00 p.m.	Regular Meeting	Council Chambers
Monday, February 7	4:45 p.m.	<i>Study Session</i> <i>Discussion of Jobs/Housing Imbalance</i>	Room 400
Monday, February 7	6:00 p.m.	Regular Meeting	Council Chambers
February 23	6:00 p.m.	Regular Meeting	Council Chambers
March 9	4:45 p.m.	<i>Study Session</i> <i>Discussion of General Plan Amendments/development projects</i>	Room 400
March 9	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
March 23	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
Monday, April 11	CANCELLED	<i>Study Session</i> <i>Discussion of Alcohol sales</i>	Room 400
Monday, April 11	6:00 p.m.	Regular Meeting	Council Chambers
April 27	6:00 p.m.	Regular Meeting	Council Chambers
Monday, May 2	4:00 p.m.	<i>Study Session</i> <i>Review CIP</i>	Room 216B
Monday, May 2	6:00 p.m.	Regular Meeting	Council Chambers
May 11	4:00 p.m.	<i>Study Session</i> <i>Discussion of Parks planning strategy (Joint session with Parks Commission)</i>	Room 400
May 11	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
May 25	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
Thursday, June 2	5:00 p.m.	<i>Study Session</i> <i>Discussion of Jobs/Housing/Transportation Policy Update</i>	Room 106E
Thursday, June 2	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
Monday, June 6	6:00 p.m.	General Plan/Regular Meeting	Council Chambers
Tuesday, June 7	6:30 p.m.	General Plan/Regular Meeting	Health Bldg. Rm. 202A/B
June 8	CANCELLED	Regular Meeting	Council Chambers
Wednesday, June 15	6:00 p.m.	Regular Meeting	Council Chambers
June 22	6:00 p.m.	Regular Meeting	Council Chambers
July 13	CANCELLED	Regular Meeting	Council Chambers
July 27	6:00 p.m.	Regular Meeting	Council Chambers (801 N. 1 <sup>ST</sup> St.)
August 10	6:00 p.m.	Regular Meeting	Council Chambers (801 N. 1 <sup>ST</sup> St.)
<b>Meetings August 24<sup>th</sup> and subsequent located in Council Chambers on 200 East Santa Clara St.</b>			
August 24	<b>6:30 p.m.</b>	Regular Meeting	Council Chambers
September 14	6:30 p.m.	Regular Meeting	Council Chambers
September 28	6:30 p.m.	General Plan/Regular Meeting	Council Chambers
October 12	6:30 p.m.	Regular Meeting	Council Chambers
October 26	5:00 p.m.	<i>Study Session</i> <i>Joint Airport Land Use/Planning Commission</i>	Room T-332
October 26	6:30 p.m.	Regular Meeting	Council Chambers
November 9	6:30 p.m.	Regular Meeting	Council Chambers
November 16	5:00 p.m.	<i>Study Session</i> <i>Joint Planning/Parks Commission</i>	Room T-332
November 16	6:30 p.m.	Regular Meeting	Council Chambers
December 7	6:30 p.m.	Regular Meeting	Council Chambers